

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEDRICK DEWAYNE ALTHEIMER,

Plaintiff,

v.

PIERCE COUNTY, WASHINGTON, and
PIERCE COUNTY SHERIFF EDWARD C.
TROYER, (a/k/a Ed Troyer), in his individual
and official capacity,

Defendants.

Case No. 2:21-cv-01437-RSM

**PLAINTIFF'S RESPONSE
TO DEFENDANT EDWARD C.
TROYER'S MOTION TO STAY**

NOTE ON MOTION CALENDAR:
JANUARY 7, 2022

I. INTRODUCTION

Plaintiff Sedrick Dewayne Altheimer does not object to the proposed stay in the civil proceedings to accommodate Defendant Troyer's criminal trial, but he does object to the civil trial being set more than a year after the conclusion of the criminal trial. Plaintiff requests that if Defendant Troyer's stay is granted, the Court order the civil trial to commence on April 3, 2023.

II. STATEMENT OF FACTS

On January 27, 2021, Defendant Edward C. Troyer, Pierce County Sheriff, began stalking Plaintiff Sedrick Dewayne Altheimer, a Black man who was engaged in his job delivering newspapers in Defendant Troyer's neighborhood as he had routinely done for the previous six years.

1 Defendant Troyer contacted an emergency dispatch back line to falsely report that Mr. Alzheimer
 2 had threatened to kill Defendant Troyer. Approximately 40 police units responded to the report that
 3 the Pierce County Sheriff's life had been threatened. When the Tacoma Police arrived and
 4 questioned Defendant Troyer, Defendant Troyer admitted to the investigating officer that he lied
 5 about Mr. Alzheimer threatening his life.

6 Governor Jay Inslee ordered that the Washington State Attorney General's Office investigate
 7 the false reporting incident. The Attorney General's Office has filed criminal charges of false
 8 reporting and making a false statement against Defendant Troyer. The criminal trial of the matter
 9 is scheduled to begin on July 11, 2022. Plaintiff Alzheimer filed his civil lawsuit against Defendants
 10 Troyer and Pierce County in September 2021. No trial date has been set. The parties have submitted
 11 a Joint Status Report to the Court. Plaintiff Alzheimer has requested a trial date of April 3, 2023.
 12 Defendants are seeking a trial date of September 5, 2023—approximately 14 months after
 13 conclusion of the criminal trial currently scheduled for July 11, 2022.

14 **III. ISSUE PRESENTED**

15 Should the Court set an April 3, 2023, trial date for the civil matter currently pending?

16 **IV. ARGUMENT**

17 "A district court has discretionary power to stay proceedings in its own court under *Landis*
 18 *v. North American Co.*" *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005) (citing
 19 *Landis v. North American Co.*, 299 U.S. 248, 254 (1936)). When deciding whether to grant a stay
 20 when criminal charges are pending, the Court should weigh the "competing interests which will be
 21 effected by the granting or refusal to grant a stay," including "the possible damage which may result
 22 from the granting of a stay, the hardship or inequity which a party may suffer in being required to
 23 go forward, and the orderly course of justice measured in terms of the simplifying or complicating
 24 of issues, proof, and questions of law which could be expected to result from a stay." *See Lockyer*,
 25 398 F.3d at 1110 (quoting *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962)).

Here, Plaintiff Alzheimer does not object to Defendant Troyer's request to stay the proceedings until his criminal trial concludes, but he does object to the matter being continued for approximately 14 months after the conclusion of the criminal proceedings. This civil case is not a complicated case. The case revolves around Defendant Troyer's actions on January 27, 2021, Pierce County's policies, and Plaintiff Alzheimer's damages. Nine months is sufficient time to conduct all the requisite discovery and prepare for trial in this uncomplicated civil matter. Delaying the civil case an additional five or six months will be an unnecessary continuation and will be prejudicial to Plaintiff Alzheimer. Witnesses' memories fade or they move out of the jurisdiction, the costs of litigation increase during these types of unnecessary delays, and the emotional trauma of the event lingers for another one-half year without any type of vindication.

Courts have routinely considered claims that excessive delay has resulted in a denial of due process. See, e.g., *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 547, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985) (delay of administrative hearing would at some point become a constitutional violation); *Fusari v. Steinberg*, 419 U.S. 379, 389, 95 S.Ct. 533, 42 L.Ed.2d 521 (1975) (length of delay important factor); *Kraebel v. NYC Dep't of Housing Pres. and Dev.*, 959 F.2d 395, 405 (2d Cir.1992); *Schroeder v. City of Chicago*, 927 F.2d 957, 960 (7th Cir.1991) ("Justice delayed is justice denied, the saying goes: and at some point delay must ripen into deprivation, because otherwise a suit alleging deprivation would be forever premature.")

Veterans for Common Sense v. Shinseki, 678 F.3d 1013, 1038 (9th Cir. 2012). Here, justice delayed is unnecessary and prejudicial to Plaintiff Alzheimer.

V. CONCLUSION

For all the reasons cited above, Plaintiff Alzheimer respectfully requests this Court set a trial date in the civil matter to April 3, 2023, irrespective of whether it grants or denies Defendant Troyer's Motion to Stay.

1 DATED this 3rd day of January 2022.

2
3 By: /s/ Susan B. Mindenbergs

4 Susan B. Mindenbergs, WSBA #20545

5 Law Office of Susan B. Mindenbergs

6 705 Second Avenue, Suite 1050

7 Seattle, WA 98104

8 Telephone: (206) 447-1560

9 Facsimile: (206) 447-1523

10 Email: susanmm@msn.com

11 By: /s/ Vonda M. Sargent

12 Vonda M. Sargent, WSBA #24552

13 The Law Offices of Vonda M. Sargent

14 119 First Avenue South, Suite 500

15 Seattle, WA 98104

16 Telephone: (206) 838-4970

17 Facsimile: (206) 682-3002

18 Email: sisterlaw@me.com

19 *Attorneys for Plaintiff*

CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2022, the undersigned caused a true and correct copy of the foregoing document to be served in the manner indicated below upon the following individual(s):

Gregory E. Jackson, WSBA #17541
Attorney for Defendant Pierce County, WA
Jackson & Nicholson, P.S.
900 SW 16th Street, Suite 215
Renton, WA 98057
Telephone: (206) 582-6001
Facsimile: (206) 466-6085
Email: Greg@jnseattle.com

☐ Legal Messenger
☐ Facsimile
☐ Electronic Mail
☐ USPS First Class Mail
☐ UPS Shipping
☒ CM/ECF

L. Clay Selby, WSBA #26049
Eric F. Schacht, WSBA #56342
Attorneys for Defendant Edward C. Troyer
Ledger Square Law, P.S.
710 Market Street
Tacoma, WA 98402
Telephone: (253) 327-1900
Facsimile: (253) 327-1700
Email: Clay@LedgerSquareLaw.com
Email: Eric@LedgerSquareLaw.com

☐ Legal Messenger
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☐ Electronic Mail
☐ USPS First Class Mail
☐ UPS Shipping
☒ CM/ECF

The foregoing statement is made under the penalty of perjury under the laws of the United States of America and the State of Washington and is true and correct.

DATED this 3rd day of January 2022.

By: /s/ Christine A. Tobin
Christine A. Tobin, *Paralegal*
Law Office of Susan B. Mindenbergs
705 Second Avenue, Suite 1050
Seattle, WA 98104
Telephone: (206) 447-1560
Facsimile: (206) 447-1523
Email: christine@sbmlaw.net